April 23, 2013

Honorable John J. Cleveland, Senate Chair
Honorable Barry J. Hobbins, House Chair
Energy, Utilities and Technology Committee
115 State House Station
Augusta, Maine 04333

Re: LD 1278, An Act To Ensure Equitable Support for Long-term Energy Contracts

Dear Senator Cleveland and Representative Hobbins:

The Public Utilities Commission (Commission) testifies neither for nor against LD 1278, An Act To Ensure Equitable Support for Long-term Energy Contracts. LD 1278 would amend the long-term contracting (Title 35-A, sec. 3210-C) and community-based renewable energy (CBRE) (Title 35-A, sec. 3604) sections of the statutes so that ratepayers of the investor-owned transmission and distribution (T&D) utilities share equally in the costs and benefits of long-term energy contracts entered into pursuant to these statutory provisions.

<u>Long-Term Contracting Authority</u>

The long-term contracting section was enacted to provide the Commission with the authority to direct T&D utilities to enter into long-term contracts that are expected to provide a benefit to ratepayers, primarily through contract rates that are projected to be below market prices over time. There are no specific requirements (such as service territory project location) regarding which of the T&D utilities are required to enter into contracts under this statutory authority. The Commission would consider several factors in deciding which utilities should enter into contracts, such as size of the project and whether the project is located in the ISO-NE control area.

To date, the Commission has authorized two contracts:

- Verso Bucksport Renewable Capacity Project, a five-year contract for renewable energy credits (REC) and capacity value with Central Maine Power Company (CMP).

- Rollins Wind Project, a 20 year contract for energy and capacity for a 60 MW facility. The Commission directed CMP to contract for 80% of the output and Bangor Hydro Electric Company (BHE) to contract for 20% of the output.

CMP has reported that 2012 RECs delivered pursuant to the Verso contract have produced a $3.4 million net benefit to ratepayers as a result of the RECs being sold at above the contract price.[1] From the July 2011 start of commercial operations through the end of 2012, the 80% of the Rollins contract assigned to CMP has resulted in above market costs totaling approximately $2.2 million. For the 20% of the Rollins contract assigned to BHE, the total above market cost for July 2011 through December 2012 is approximately $650,000.

Off-Shore Energy Projects

The Ocean Energy Act, PL 2009, ch. 615, directed the Commission, in accordance with section 3210-C, to conduct a solicitation for above-market long-term contracts from offshore wind and tidal energy projects.[2] As a result of that process, the Commission has authorized two long-term contracts:

- Statoil Hywind Offshore Wind Project-12 MW (projected to begin operation 2016).

- Ocean Renewable Power Company Tidal Project-5 MW (approximately 180 kW in currently in operation).

The Commission directed the Statoil contract to be with CMP, and the Ocean Renewable contract to be with BHE and Maine Public Service Company (MPS) on a proportional basis. Under the Commission's current projections, these above market contracts will result in similar costs per kWh to the ratepayers of the three investor-owned T&D utilities. This projection, however, assumes both projects are constructed as currently planned.

Community-Based Renewable Energy

The CBRE pilot program contains an above-market long-term contract incentive mechanism for renewable energy projects of up to 10 MW. The contract may be up to 20 years and the price is capped at 10 cents/kWh. The statute specifies that CBRE contracts must be with the utility in whose service territory the project is located.

The Commission has authorized the following long-term contracts projects:

- Exeter Agri-Energy LLC, a 980 kW anaerobic digester system located on the Fogler Farm in Exeter, 20-year contract with BHE at an electricity price of $0.10/kWh. The project achieved commercial operations in January 2012.

- Jonesport Wind Power, LLC, a 4.8 MW wind project located in Jonesport, Maine, a 20-year contract at a price of $0.085/kWh. The project has not begun operation.

- Lubec Wind Power, LLC, a 4.8 MW wind project located in Lubec, Maine, a 20-year contract at a price of $0.085/kWh. The project has not begun operation.

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[1] The $3.4 million benefit is net of CMP's broker and consultant costs for 2012 which were approximately $300,000.

[2] The Commission assumes that LD 1278 is intended to apply to the offshore energy contracts, although the language of the bill is not clear.

- Pisgah Mountain, LLC, a 9.0 MW wind project located in Clifton, Maine, 20-year contract at a price of $0.093/kWh. The contract with BHE is not yet signed and the project has not begun operation.

All these projects are in BHE's service territory and, as required by law, the contract counter-party is or will be BHE. Accordingly, at this point, only BHE ratepayers will incur the costs of the CBRE program. Assuming all these project come on line, the above-market costs to BHE's ratepayers would be approximately $2-3 million per year for 20 years.[3]

LD 1278

This bill would require the Commission to allocate the "direct" benefits and costs of long-term contracts equitably among the ratepayers of the investor-owned utilities. For this purpose, benefits flow from contracts that have below market rates and costs flow from contracts that have above market prices. The bill would apply to both future and existing contracts.[4] The bill contains an assessment/remittance mechanism as the means for the Commission to allow for the equitable allocation of long-term contract benefits/costs.

The Commission notes that, as a general matter, the policy goals sought to be achieved through long-term contracts, either in terms of lowering market prices or new renewable resource development, largely flow to all of the State's ratepayers. Accordingly, there is a sound rationale for attempting to allocate their costs more generally and equally.

The Commission further notes that the assessment/remittance mechanism appears to be a workable regulatory means to accomplish the goal of the bill. However, the Committee may want to provide the Commission with the flexibility to use other mechanisms that could accomplish the goal of the bill in a more efficient manner.

The Commission looks forward to working with the Committee on LD 1278 and I would be happy to respond to any questions the Committee has at this time. The Commission will also be present at the work session to assist the Committee in its consideration of this bill.

Sincerely,

Paulina McCarter Collins, Esq.
Legislative Liaison

cc: Energy, Utilities and Technology Committee Members
Jean Guzzetti, Legislative Analyst

[3] The Commission has recently issued a request for proposals for long-term contracts with CBRE projects, so there may be additional CBRE contracts in the future.

[4] The Commission notes that LD 964 would remove the service territory requirement for CBRE contracts in an effort to equitably allocate the costs of that program. However, this legislation would only apply to future CBRE contracts.